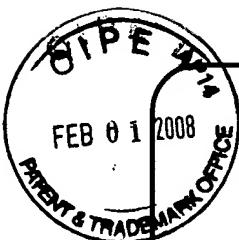


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Application Number	09/544,808	
Filing Date	4/7/2000	
First Named Inventor	Muhammed Sezan	
Art Unit	2623	
Examiner Name	CHOWDHURY, SUMAIYA A	
Total Number of Pages in This Submission	Attorney Docket Number	7146.0066

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Firm	Chernoff, Vilhauer, McClung & Stenzel, L.L.P. 601 SW Second Ave., Suite 1600 Portland, OR 97204		
Signature			
Printed Name	Kevin L. Russell		
Date	January 29, 2008	Reg. No.	38,292

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant : Muhammed Sezan Confirmation No.: 1597
App. No. : 09/544,808
Filed : April 7, 2000
TC/A.U. : 2623
Examiner : Chowdhury, Sumaiya
Customer No.: 55648
Title: AUDIOVISUAL INFORMATION MANAGEMENT SYSTEM

APPELLANT'S REPLY

Mail Stop APPEAL BRIEF-PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

BACKGROUND

This brief is in furtherance of a Notice of Appeal, filed in this case on December 12, 2006, an Appeal Brief, filed in this case on February 14, 2007, and in response to an Examiner's Answer, mailed November 29, 2007.

STATUS OF CLAIMS

A. TOTAL NUMBER OF CLAIMS IN THE APPLICATION

There are 6 claims currently pending in the application.

B. STATUS OF ALL CLAIMS

Claims canceled: 6-94

Claims withdrawn: None

Claims pending: 1-5, and 95

Claims allowed: None

Claims objected to: None

Claims rejected: 1-5, and 95

C. CLAIMS ON APPEAL

Claims 1-5 and 95 are on appeal.

A copy of the claims on appeal is set forth in the Claims Appendix to this

Brief.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection presented for review are whether claims 1-5 and 95 are unpatentable under 35 U.S.C. §103(a) over Dedrick, U.S. Pat. No. 5,696,965 (hereinafter Dedrick), in view of O'Flaherty et al., U.S. Pat. No. 6,253,203 (hereinafter O'Flaherty).

ARGUMENT

While relevant claim terminology will be discussed below, the applicant's claims are generally directed to a user-preference scheme by which a user of audiovisual equipment defines and stores a set of the user's particular preferences. Such preferences are often used, for example, to automatically select, from a wide assortment of available content, particular programming (audio, video, or image) most likely to be of interest to the user. This use of a user-preference scheme is typically performed at the location of the user by, e.g. a set-top box that compares the preferences to a program description scheme that matches values in fields within the user-preference scheme to corresponding fields in the program description scheme. Such preferences, however, may also be used to "push" targeted advertising or other content to the user. While such a use of a user-preference scheme does not always require actual identification of a particular user (beyond an assigned generic number, IP address, etc.), this use does require that at least some of the preferences in the user's preference scheme be made available to a server or other central location outside the home or office of the user.

In this vein, the applicant's claims are more specifically directed to a method for including, in a user-preference scheme that provides, within "a usage preferences description describing preferences of a user with respect to the use of at least one of an audio, an image, or a video", a "protection attribute" that specifies "whether the preferences in said selected set are considered public or private." (emphasis added). Even more specifically, the applicant's claims require that the "protection attribute" comprise "a binary number having a number of bits equal to the number of preferences

in [a] selected set [of preferences] and where each bit of said binary number indicates whether a particular preference in said selected set is to be public or private.”

The Examiner rejected the applicant’s claims 1-5 and 95 under 35 U.S.C. § 103(a) as being obvious in view of the combination of Dedrick and O’Flaherty. While these references will be discussed in detail below, the applicant presently notes that the claimed “protection attribute”, with its one-bit-per-preference property, must be associated with a selected set of “preferences *of a user* with respect to the use of at least one of an audio, an image, or a video.” That is to say, the claimed protection attribute indicates, not whether a user will *include* a preference in a user preference scheme *in the first instance*, but instead indicates whether a preference that *is included* in the preference scheme is considered *public* or *private*.

Dedrick broadly discloses a process for compiling user-related information, such as demographic information (income, age, gender, etc.) as well as content preference information (color preferences etc.) This information is used in a network-based system where users browse or select content to view or otherwise consume, e.g. surfing the Internet. A user of Dedrick’s system has a client system 12 that includes a personal profile database 27 and a graphical user interface (GUI) that nominally shows fields only for a user’s name and password. See Dedrick at col. 3 lines 18-21. The GUI, however, also includes hidden fields for demographic and preference information. *Id.* at col. 3 lines 23-30. The demographic information for a user is physically entered by the user, either in response to a questionnaire at initial startup, or through a GUI editor, discussed later. *Id.* at 3 lines 37-53; col. 7 lines 32-35. The preference information, however, is automatically compiled in a manner “transparent” to the user, at the client (i.e. user)

side, as the user browses the Internet. *Id.* at col. 3 lines 53-56. This is achieved when an information provider, e.g. an advertiser, includes a data header that associates data, such as a web page, or interactive portions of the data, with preferences, for which there are identified fields in the hidden portion of the GUI. Thus, as a user consumes the information received, the personal profile database is able to infer preferences by matching the user's interactions with the preferences that the header associates with those interactions, and record the inferred preferences in the personal profile database. *Id.* at col. 4 lines 36-45. This profile or preference information, though nominally hidden in the standard GUI, may similarly be accessed and edited in the aforementioned editor. See *Id.* at col. 5 lines 41-51.

The profile database is operatively connected to a statistical compilation process 26 that retrieves preferences and demographic information from the personal profile database and publicly forwards non-identifying such information through a metering server, along with other information such as, for example, how long the user (only identified by the attached profile) browsed an advertisement. *Id.* at col. 7 lines 3-15 and lines 36-56. Thus, the statistical compilation process, to the extent that it interacts with the personal profile database, does so only insofar as it strips the personal profile database of any identifying information, appends the profile to any other relevant data, and forwards it to a metering server.

As noted previously, the client system 12 includes an editor by which a user may manually *override or delete* any preference in the personal profile database. For example, Dedrick states that "even though an end user may select a field with the color purple most frequently, the end user is able to modify the user profile data to indicate

that green is the preferred color.” *Id.* at col. 6 lines 60-63; *See also Id.* at col. 5 lines 41-51. Similarly, and most relevant to the Examiner’s rationale for rejecting the applicant’s claims, Dedrick discloses that “client interface 23 provides the end user with access to *personal profile database 27* which allows the end user to select certain criteria *to be omitted* from the compilation process. Alternatively, for demographic information, the user *may not initially provide* certain information to the personal profile database 27, thereby preventing its inclusion in the compilation process.” *Id.* at col. 7 lines 26-35 (emphasis added).

The question for this appeal is whether Dedrick’s interface for accessing the personal profile database to override or delete any preference data therein, comprises the claimed “protection attribute . . . indicating whether the preferences [of a user] in said selected set are considered public or private.” The applicant respectfully contends that it *does not*. First, the applicant notes that whatever preferences *of a user* that are identified within Dedrick’s personal profile database 27 are going to be sent through the metering server. This must be the case because the only feature that Dedrick discloses, that would preclude a preference, existing at the time that a metering server transmits a call for the preference data, from being transmitted is the statistical compilation process’s ability to strip any personally identifying information from the transferred data. All other preferences in the database at that time are publicly divulged.

The Examiner may be reading the term “preferences” as reading upon merely the preference *fields* of Dedrick, such that, and further assuming that the fields ostensibly are appended with a binary number indicating whether or not preference data should be prospectively, automatically inserted therein, while the user browses the Internet. These

fields, alone, however, would not be preferences “of a user”, and such an attribute would render moot the question about whether to keep a preference of a user “public” or “private.” Moreover, Dedrick appears to merely allow a user to alter existing data in the personal profile database, e.g. change or delete it. See Dedrick at col. 5 lines 41-51. Dedrick nowhere discloses an ability on the part of a user to *prospectively* affect how the personal profile database collects or infers preferences. Thus, when a user enters the database and deletes or changes a preference, this alteration is merely temporary in the sense that user’s subsequent browsing activity will prospectively alter those user-modifications. *Cf. Id.* at col. 6 lines 58-59 ([T]he end user is able to override any *compiled* user profile data.”(emphasis added).

Alternatively, the Examiner may be misreading Dedrick, and in particular, the passage at col. 7 lines 26-29, as disclosing a feature where user preferences are stored in the database, while the user has the ability to prevent selected stored preferences from being transmitted to the metering server without actually deleting the selected preferences from the database itself. This interpretation would be incorrect. First, in the full paragraph at col. 7 lines 26-34, Dedrick is clearly disclosing a user actually deleting or “omitting” the preferences from the user database 27. Thus, with respect to demographic data which is initially entered by a user (due to the inability to reliably infer gender, marital status, etc. from browsing history), Dedrick discloses that a person “protects” this information by simply not entering it. Similarly, if a user wishes to “protect” a preference, the user accesses it from the editor and simply “omits”, or deletes it. Note also that, if Dedrick were to disclose retaining the preferences, but not passing them through the metering server, this would be achieved by direct access to the *statistical*

compilation process 26 to strip the preferences there, like it does the personal identification information. The only action that could be plausible taken by access to the *database 27* is mere alteration of the preferences therein, as disclosed by Dedrick at col. 5 lines 41-51 and col. 6 lines 58-63, i.e. change the data itself as opposed to leaving the data intact and appending it with a protection attribute, as the Examiner contends.

Moreover, the applicant notes that the only purpose disclosed by Dedrick for compiling the *hidden* preference data in the first instance is to *transmit* it, so that content providers know what customized content to *push* at the user. There is no reason, in the system of Dedrick, for a protection attribute to be associated with any particular preference, indicating whether it is to be kept public or private; if it is not public (sent through the metering server), Dedrick's system simply has no use for the preference.¹ Thus, one of ordinary skill in the art would not find it obvious to include a protection attribute in the system of Dedrick, either.

Because Dedrick fails to teach a "preference attribute" indicating whether "preferences of a user" are to be kept "public or private", the Examiner's rejection is improper. See Examiner's answer at p. 6 (indicating that the secondary reference, O'Flaherty, was merely cited to teach a one-bit-per-preference attribute). The applicant does note, however, that the Examiner seems to concede that O'Flaherty actually teaches a five-bit-per-preference protection attribute, i.e. a first "global control" bit along with four other bits expressing various sub-levels of privacy, for each preference.

¹ Dedrick does disclose that identifying information is stored, but not transmitted by the statistical compilation process 26 through the metering server. This is because the identifying information, such as name and credit card number, is useful when purchasing goods. Dedrick discloses no similar use for storing "consumer data" if it is not compiled by the statistical compiler 26.

Finally, the applicant reiterates that, although Dedrick also discloses an “encryption key” to prevent unauthorized access to the user’s personal profile database, the Examiner has provided no explanation as to why one of ordinary skill in the art would provide an encryption key based on the number or preferences in the *profile* that the encryption key is intended to protect. Why, for example, would an encryption key intended to protect access to a profile having twenty preferences require twenty bits, while an encryption key intended to protect a profile having only one preference require only one bit. Obviously, as stated earlier, in that latter circumstance, the “encryption key” would no longer function as an encryption key at all, as it would be a trivial exercise to access the profile. The Examiner states that this argument is “baseless,” however it appears to the applicant to be directly on point, as it goes to the issue of whether one of ordinary skill in the art would find it obvious to modify an encryption key such that it would cease to act as a key, at all. (An analogy would be modifying a combination lock to remove the “lock” by making all combinations work). In any event, it does not appear from the Examiner’s Answer that the encryption key of Dedrick is still being relied upon to support the present rejection.

For all of the foregoing reasons, claim 1, as well as its dependent claims 2-5 and 95 patentably distinguish over the cited combination of Dedrick and O'Flaherty, and the Examiner's rejection of claims 1-5 and 95 under 35 U.S.C. § 103(a) should be reversed.

Respectfully submitted,

CHERNOFF, VILHAUER, McCLUNG & STENZEL

Dated: January 29, 2008

By


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Dated: January 29, 2008


Kevin L. Russell